

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Dec 29, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICK JAMES LINEHAN,

Defendant.

NO: 2:20-CR-159-RMP-1

STIPULATED PROTECTIVE
ORDER REGARDING COMPUTER
FORENSIC REVIEW
PROCEDURES FOR CHILD
PORNOGRAPHY CONTRABAND

BEFORE THE COURT is the parties' Stipulation for a Protective Order Regarding Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 16. The Court has reviewed the Stipulation, the record, and is fully informed. The Court finds good cause has been shown.

Accordingly, **IT IS HEREBY ORDERED:**

1. The Stipulation for a Protective Order Regarding Computer Forensic Review Procedures for Child Pornography Contraband filed by the parties, **ECF No. 16**, is **GRANTED**.

2. IT IS FURTHER ORDERED that 18 U.S.C. § 3509(m) applies to this

STIPULATED PROTECTIVE ORDER REGARDING COMPUTER FORENSIC
REVIEW PROCEDURES FOR CHILD PORNOGRAPHY CONTRABAND ~ 1

1 case, and the Court is required to deny defense requests to copy, photograph,
2 duplicate, or otherwise reproduce material constituting child pornography if the
3 government makes the material reasonably available to Defendant and provides an
4 ample opportunity for the defense to examine it at a government facility. *See* 18
5 U.S.C. § 3509(m).

6 3. IT IS FURTHER ORDERED that, in order to comply with 18 U.S.C.
7 § 3509(m), and to allow Defendant the greatest opportunity to prepare an effective
8 defense in preparation for trial in this matter, the government will make a true
9 forensic, bit-by-bit E01 image of devices and media containing alleged child
10 pornography contraband at issue in the above-referenced case. The government
11 will make that forensic image reasonably available to Defendant and provide
12 ample opportunity for the defense team to examine it at a government facility in
13 Spokane, Washington. The parties may readdress the Court if there is a need for
14 additional or after-hours access during the course of litigation in the event trial or
15 motion hearings require additional forensic review.

16 4. IT IS FURTHER ORDERED that the defense forensic examination
17 will be conducted in an interview room monitored by closed-circuit television
18 (“CC-TV”), without audio feed. While the TV with non-audio feed will ensure the
19 integrity of FBI space and security of its occupants, the video feed is not of
20 sufficient detail or at an angle that would reveal defense strategy. The government
21 and its agents expressly agree that no attempt will be made to record any audio

1 from the workstation and that no attempt will be made to observe the defense
2 team's work product or computer monitor screen at any time. The defense expert
3 may review the feed to ensure that defense strategy is not being compromised at
4 any time while conducting the forensic review.

5 5. IT IS FURTHER ORDERED that the defense team¹ shall not make,
6 nor permit to be made, any copies of the alleged child pornography contraband
7 pursuant to this Protective Order and shall not remove any contraband images from
8 the government facility. The defense expert will be allowed to copy any file that is
9 not contraband and compile a report (without contraband images/videos)
10 documenting the examination on removable media at the discretion of the defense
11 expert.

12 6. IT IS FURTHER ORDERED that the designated defense expert will
13 leave at the government facility any equipment, including hard drives, which
14 contain child pornography contraband that is identified during forensic evaluation.
15 The parties may readdress this matter with the Court upon notice that the defense
16 intends to retain a different defense expert.

17 7. IT IS FURTHER ORDERED that for the purpose of trial, the
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19 ¹ For purposes of this Protective Order, the term "defense team" refers solely to
20 Defendant's counsel of record ("defense counsel"), Defendant's designated expert
21 ("defense expert"), and a defense investigator.

1 government agrees to make available a digital copy of any government trial exhibit
2 that contains contraband, which will be kept in the custody and control of the case
3 agent. Upon reasonable notice by the defense, the case agent will also maintain for
4 trial digital copies of any proposed defense exhibit that contains contraband. If the
5 defense team intends to offer, publish, or otherwise utilize any government or
6 defense exhibit contained on the digital copy maintained by the case agent during
7 trial, the case agent shall assist the defense team in publishing or utilizing the
8 exhibit that contains contraband upon notification by the defense team.

9 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this Order
10 and provide copies to counsel.

11 **DATED** December 29, 2020.

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13 *s/ Rosanna Malouf Peterson*
14 ROSANNA MALOUF PETERSON
15 United States District Judge
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